

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Sheila Holland

v.

Civil No. 11-cv-291-LM

McLean Communications, Inc.,
The Nashua Telegraph;
Independent Publications, Inc.;
Network Publications, Inc.;
Sharron McCarthy; and Steven Pare

O R D E R

In a case that has been removed from the New Hampshire Superior Court, Sheila Holland has sued six defendants in nine counts, asserting claims arising from treatment she received while she was employed by Network Publications as a sales representative. Before the court is defendants' motion to dismiss: (1) Holland's federal and state claims for age discrimination (Counts Eight and Nine); and (2) the claim she asserts for an alleged violation of a provision in the New Hampshire Code of Administrative Rules pertaining to the manner in which employers are required to notify employees of changes in wages and benefits (Count Four). Defendants argue that they are entitled to dismissal pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, because Counts Four, Eight,

and Nine fail to state claims upon which relief can be granted. Holland's objection to defendants' motion to dismiss was due on July 5, 2011. See LR 7.1(b). As of the date of this order, no objection has been filed. For that reason, defendants' motion to dismiss is granted.

Rule 7.1(b) of the Local Rules of the United States District Court for the District of New Hampshire specifies the amount of time parties have to respond to motions filed by their opponents. That rule further provides that "[t]he court shall deem waived any objection not filed in accordance with this rule." LR 7.1(b). The First Circuit has held that when a plaintiff fails to object to a Rule 12(b)(6) motion, a district court may grant a motion to dismiss in reliance upon a "deemed waived" provision in that court's local rules. See ITI Holdings, Inc. v. Odom, 468 F.3d 17, 18-19 (1st Cir. 2006); cf. NEPSK, Inc. v. Town of Houlton, 283 F.3d 1, 5-9 (1st Cir. 2002) (affirming dismissal under Rule 12(c) based upon plaintiff's failure to timely object to defendant's motion for judgment on the pleadings in conjunction with local "deemed waived" rule). Because this case is analogous to ITI Holdings in all relevant respects, including the wording of the applicable local rules, Holland's failure to object to defendants' motion to dismiss

entitles defendants to dismissal of Counts Four, Eight, and Nine. Accordingly, defendant's motion to dismiss, doc. no. 8, is granted.

SO ORDERED.



Landya McCafferty
United States Magistrate Judge

August 22, 2011

cc: Kenneth J. Barnes, Esq.
Christopher B. Kaczmarek, Esq.